

**MINUTES OF SPECIAL MEETING
ILLINOIS GAMING BOARD
June 29, 2005
CHICAGO, ILLINOIS**

NOTE: ITEMS IN **BOLDFACE PRINT** REFLECT OFFICIAL BOARD ACTIONS

The Illinois Gaming Board ("Board") held its Special Meeting on June 29, 2005 in the Auditorium on the 5th floor of the Michael A. Bilandic Building, Chicago, Illinois, pursuant to the Illinois Open Meetings Act, 5 ILCS 120/1 et seq.

The following Board Members were present: Chairman Aaron Jaffe and Members Gary Peterlin, Eugene Winkler and William Dugan. Member Charles Gardner was present by phone.

Chairman Jaffe convened the June 29, 2005 Special Meeting at 10:30 A.M. in the 3rd floor Board Conference Room. Pursuant to Section 2(c), paragraphs (1), (11), and (14) of the Open Meetings Act and Section 6(d) of the Riverboat Gambling Act, Member Winkler moved that **the Board retire to Closed Session to discuss the items listed under Closed Session on today's agenda and relating to the following subject matters:**

- 1. Pending litigation and matters involving probable litigation;**
- 2. Investigations concerning applicants and licensees; and**
- 3. Personnel matters.**

Member Gardner seconded the motion. The Board approved the motion unanimously by voice vote.

At 1:15 P.M. Member Winkler moved that **the Board reconvene into Open session.** Member Gardner seconded the motion. The Board approved the motion unanimously by voice vote.

Approval of Minutes

Member Dugan moved that **the Board approve the closed session minutes from March 10, 2004 through and including August 26, 2004 and the open session minutes from June 3, 2004 through and including March 15, 2005.** The motion was not seconded. The motion failed.

Chairman's Report

Chairman Jaffe announced that today would be Member Dugan's last day to serve on the Board. Chairman Jaffe stated that Member Dugan has served on the Board with a great deal of dignity and has been an inspiration to the entire Board. Chairman Jaffe stated that

Member Dugan is a hardworking and giving person. Chairman Jaffe stated that the Board regrets to see Member Dugan leave.

On behalf of the Board and Staff, Chairman Jaffe presented Member Dugan with a token of appreciation for all of his hard work.

On behalf of Staff, Interim Administrator Tamayo thanked Member Dugan for his service, and his willingness to speak his mind whether or not he and Staff agreed or disagreed on any particular issue. Interim Administrator Tamayo stated that Member Dugan's guidance and commitment to helping carry out the work of the Board is much appreciated by Staff.

Member Peterlin stated that he appreciated working with Member Dugan. Member Peterlin stated that Member Dugan treated him the same way whether he was agreeing or disagreeing with Member Peterlin. Member Peterlin thanked Member Dugan for all of his hard work and wished him well in his future endeavors.

Member Dugan read his letter of resignation.

Board Policy Items

2005 Board Meeting Dates (7/1/05 – 12/31/05) - Member Peterlin moved that **the Board adopt the following dates for regulatory meetings from July through December 2005.**

July 26, 2005
August 25, 2005
September 15, 2005
October 13, 2005
November 10, 2005
December 8, 2005

Member Winkler seconded the motion. The Board approved the motion unanimously by voice vote.

Owner Licensee Items

Emerald Casino – License Renewal – See the attached resolution.

Grand Victoria Casino – License Renewal – Donna More, Attorney, and Randy Roberts, General Manager, were present on behalf of Grand Victoria Casino.

Ms. More stated that since Grand Victoria's last presentation before the Board, Grand Victoria has submitted to Staff and the Board responses to various questions posed by the Board.

Member Winkler expressed the Board's concerns regarding the membership of the Board of the Grand Victoria Foundation.

Ms. More stated that Grand Victoria has had meetings with Staff and has agreed that the lines of communication need to be improved. Ms. More stated that Grand Victoria would be scheduling routine meetings with Staff on the Foundation's behalf so that Staff will be updated on what the Foundation is doing.

Member Peterlin stated that the Board believes that the Foundation's board should be more inclusive of community representation. Member Peterlin stated that the Foundation should choose someone from the community that would be reflective of the people that the Foundation serves.

Based on the staff's investigation and recommendation, Member Peterlin moved that **the Board approve the Elgin Riverboat Resort d/b/a Grand Victoria Casino for a term of 4 years commencing retroactively from October 2004.**

Further, the Board designates and approves the following persons and entities as Key Persons of the licensee:

- 1. Daniel Azark;**
- 2. Martha A. Sabol;**
- 3. RGB, LP;**
- 4. RGB Investors LP;**
- 5. PG Investors LP;**
- 6. Nicholas J. Pritzker;**
- 7. Thomas J. Pritzker;**
- 8. Marshall E. Eisenberg; and**
- 9. HCCA Corp.**

Further, the Board designates the following entities as Key Persons of the licensee:

- 1. Peter M. Ligouri;**
- 2. John Redmond;**
- 3. Gary N. Jacobs;**
- 4. Hyatt Gaming Management, Inc.;**
- 5. Tracinda Corporation;**
- 6. Kirk Kerkorian; and**
- 7. MGM Mirage,**

subject to further review of any management changes resulting from the merger of Elgin Riverboat Resort and MGM Mirage. Member Winkler seconded the motion. The Board approved the motion unanimously by voice vote.

Public Commentary

David Goroff was present on behalf of the Village of Rosemont. Although he had withdrawn earlier as a speaker, he requested permission at the meeting to address the Board. Mr. Goroff inquired if the granting of Emerald's application for renewal and relocation is effective today for a period of four years from today.

Member Winkler stated that it is effective from September 24, 1999.

Mr. Goroff inquired if it is the Board's position that it is entering an order that has expired before any relief is available.

Chairman Jaffe stated that he would not designate it as such. Chairman Jaffe stated that it has been the procedure that renewals are effective from the date of the last license issued by the Board.

Mark Ostrowski, Chief Legal Counsel, stated that this is a matter that is the subject of litigation.

At 1:45 P.M., Member Winkler moved that **Pursuant to Section 2 (c), paragraphs (1), (11), and (14) of the Open Meetings Act, the Board retire to Closed Session to discuss the following subject matters:**

- 1. Pending litigation and matters involving probable litigation;**
- 2. Investigations concerning applicants and licensees; and**
- 3. Personnel matters.**

Member Peterlin seconded the motion. The Board approved the motion unanimously by voice vote.

The Board adjourned Closed session at 2:30 P.M.

Respectfully submitted,
Monica Thomas

Secretary to the Board

RESOLUTION

Member Winkler offered the following resolution:

WHEREAS, Emerald Casino, Inc., (Emerald) formerly known as HP Inc., was initially granted an owner's license to conduct riverboat gaming in Illinois on July 9, 1992. The Illinois Gaming Board (Gaming Board) renewed the owner's license held by Emerald in July 1995 and again in July 1996.

WHEREAS, on June 24, 1997, the Gaming Board voted to deny the renewal of the owner's license held by Emerald and issued a Notice Of Denial on June 27, 1997. On July 2, 1997 Emerald requested an administrative hearing regarding the denial of its renewal application and an Administrative Law Judge was appointed.

WHEREAS, on July 29, 1997, Emerald ceased all gaming operations.

WHEREAS, on May 5, 1999, the Administrative Law Judge concurred with the Gaming Board and recommended that the Gaming Board take final action to deny the renewal of the owner's license held by Emerald.

WHEREAS, before the Gaming Board took final action on the denial of Emerald's 1997 renewal application, the Illinois General Assembly amended the Illinois Riverboat Gambling Act (the Act) by adding Section 11.2. The Act, as amended, became effective June 25, 1999.

WHEREAS, on September 7, 1999, the Gaming Board allowed Emerald to file a new Application For Renewal Of Owner's License.

WHEREAS, Emerald filed with the Illinois Gaming Board an Application For Renewal Of Owner's License as of September 24, 1999.

WHEREAS, on January 30, 2001, the Gaming Board voted to deny Emerald's Application For Renewal Of Owner's License.

WHEREAS, on January 30, 2001, the Gaming Board also voted to revoke the owner's license held by Emerald.

WHEREAS, on March 6, 2001, the Gaming Board issued a Notice Of Denial Of Emerald's Application For Renewal Of Owner's License (No. 01-01) and also issued a five-count Complaint For Disciplinary Action (No. DC-01-05) seeking revocation of the owner's license held by Emerald (the revocation proceeding).

WHEREAS, on March 13, 2001, Emerald filed a verified Request For Hearing on the Notice Of Denial of its Application For Renewal Of Owner's License. On March 26, 2001, Emerald filed a Verified Answer to the Complaint For Disciplinary Action. On June 4, 2001, Emerald elected to proceed on the Complaint For Disciplinary Action before proceeding on the Notice Of Denial Of Emerald's Application For Renewal Of Owner's License.

WHEREAS, on May 21, 2001, Emerald filed a Complaint in the Circuit Court of Cook County in which it sought declaratory relief and a writ of mandamus ordering the Gaming Board to approve Emerald's September 24, 1999 application for license renewal. On July 1, 2002 the Circuit Court granted the Gaming Board's motion for summary judgment and issued a written decision finding that the word "shall" in Section 11.2 of the Act cannot be interpreted as mandatory based, in part, on the express purposes of the Act. On December 30, 2003, the Appellate Court reversed the Circuit Court's decision and found that the use of the word "shall" in Section 11.2 of the Act required the Gaming Board to grant Emerald's Application For Renewal Of Owner's License.

WHEREAS, on June 9, 2005, pursuant to the mandate of the Appellate Court, the Circuit Court directed the Gaming Board to grant Emerald's September 24, 1999 Application For Renewal Of Owner's License.

WHEREAS, the constitutionality of Section 11.2 of the Act is an issue that is currently pending before the Illinois Supreme Court in a case entitled *Crusius v. The Illinois Gaming Board, et al.*, No. 98351.

WHEREAS, the revocation proceeding is currently pending before the Honorable Abner J. Mikva.

WHEREAS, according to the December 30, 2003 decision of the Illinois Appellate Court in *Emerald Casino, Inc. v. Illinois Gaming Board*, Section 11.2 of the Act overrides the Gaming Board's authority under the Act and the Rules not to renew Emerald's Application For Renewal Of Owner's License, but does not affect the Board's ability to revoke the owner's license held by Emerald for any reason permitted by the Act or the Rules.

WHEREAS, the Circuit Court's June 9, 2005 order directs the Gaming Board to grant Emerald's Application For Renewal Of Owner's License, but does not direct the Board to discontinue or take any other action concerning the pending revocation proceeding.

WHEREAS, Section 7(g) of the Act authorizes the Gaming Board to renew an owner's license "for a period of 4 years, unless the Board sets a shorter period."

WHEREAS, the granting of Emerald's Application For Renewal Of Owner's License pursuant to Section 11.2 of the Act would eviscerate and directly contravene

certain sections of the Act and the Rules pertaining to license renewal, including Section 2 of the Act which expressly directs the Gaming Board to “strictly regulate the facilities, persons, associations and practices related to gambling operations” and Section 7(g) of the Act which requires that “all licenses are renewable annually upon payment of the fee and a determination by the Board that the licensee continues to meet all of the requirements of this Act and the Board’s rules.”

NOW, THEREFORE,

BE IT RESOLVED that in accordance with the June 9, 2005 order entered by the Circuit Court, the Gaming Board hereby grants Emerald’s September 24, 1999 Application For Renewal Of Owner’s License, as of September 24, 1999, for a period of four (4) years, subject to Section 11.2 of the Act being determined constitutional in *Crusius*.

BE IT FURTHER RESOLVED, that neither the adoption of this Resolution nor the granting of Emerald’s September 24, 1999 Application For Renewal Of Owner’s License constitutes a determination of 1) the adequacy of the September 24, 1999 Application For Renewal Of Owner’s License, 2) the suitability of Emerald, its Key Persons and the location of the docksite, and 3) the Complaint For Disciplinary Action.

BE IT FURTHER RESOLVED, that the renewal of the owner’s license pursuant to Emerald’s September 24, 1999 Application For Renewal Of Owner’s License during the revocation proceeding, as mandated by the Illinois Appellate Court, does not render the revocation proceeding moot and the Administrative Law Judge and counsel are directed to continue with the revocation proceeding.

Member Peterlin seconded the motion. Member Dugan opposed the motion. The motion passed 4 to 1.